IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:24.11.2006

CORM:

THE HON'BLE MR. JUSTICE P. SATHASIVAM
and
THE HON'BLE MR. JUSTICE S. TAMILVANAN

Writ Appeal No.1943 of 2001

G. Loganathan .. Appellant/Petitioner

Vs.

1. The State Consumer Disputes
   Redressal Commission
   Chennai 600 004.

2. Dr. A. Indira Narayanan
   Murari Hospital
   Madhavaram
   Chennai 600 060. .. Respondents/Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 24.04.2001 passed by His Lordship the Hon'ble Mrs. Justice Toom Meenakumari in Writ Petition No.980 of 1994 filed under Article 226 of the Constitution of India to issue a Writ of Cettiorarified Mandamus calling for the records of the 1st Respondent Commission in connection with its order in OP.No.50/92 dated 7.12.1993 and quash the same and direct the Hon'ble State Consumer Disputes Redressal Commission to restore the said complaint on the file and dispose of the same after entertaining the Application for condonation of delay filed by the petitioner on 10.11.1993 and issue such further or other appropriate orders (or) direction.

For appellant : Mr. V. Prakash, Sr.Counsel
for Ms. G. Ramapriya

For respondents : Mr. A.R. Karunakaran for R.2

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JUDGMENT

(Judgement of the Court was delivered by P.SATHASIVAM,J.)

The above writ appeal is filed against the order of the learned single Judge dated 24.04.2001 made in W.P.No.980 of 1994, in and by which the learned Judge, after finding that proper remedy for the writ petitioner is to file an appeal before the National Commission, Delhi, dismissed the said writ petition.

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2. Heard the learned counsel for the appellant as well as the contesting second respondent.

3. In view of the order to be passed hereunder, we are of the view that it is unnecessary to refer all the factual details as stated by the appellant as well as the second respondent. The writ petitioner/appellant filed a claim petition before the State Consumer Disputes Redressal Commission in the year 1991 for a direction to the second respondent pay a sum of Rs.1,10,000/- to him towards damages (loss caused to his child due to negligent act of the opposite party - second respondent herein). The State Consumer Disputes Redressal Commission, by order dated 29.11.1993, after finding that the right of sue occurred on 17.06.1988 and the compliant was filed more than three years thereafter, i.e., on 29.02.1992, which is barred by time; and that there is no acknowledgement of liability on the part of the opposite party/second respondent herein, held that the claim for which the limitation commenced on 17.06.1988 is barred by limitation and dismissed the complaint. When the said order was challenged by way of writ petition, taking note of the fact that the appeal would lie before the National Commission, the learned single Judge, dismissed the writ petition as not maintainable; hence, the writ appeal.

4. Considering the fact that the act of negligence is said to have taken place in the year 1988 and also taking note of the fact that the contesting second respondent herein - opposite party before the State Consumer Disputes Redressal Commission is running the hospital like a charitable trust, helping poor people in and around Madhavaram area, we suggested the second respondent to pay a reasonable amount to give a quietus to the litigation, which started in the year 1988. After deliberation, the second respondent brought a Demand Draft for a sum of Rs.50,000/- (Rupees fifty thousand only) in the name of the petitioner/appellant-father of the victim boy and the same was handed over to the counsel appearing for the appellant.

5. Taking note of the interest of the victim boy who is aged about 18 years, we direct that the amount shall be invested in Indian Bank, Villivakkam Branch in reinvestment scheme. The appellant, viz., G. Loganathan, father of the victim boy is permitted to withdraw accrued interest once in six months directly from the Bank. It is made clear that we adopted the above method only to give a quietus to the issue pending from 1988.

The writ appeal is disposed of accordingly. No costs.

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Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The State Consumer Disputes
Redressal Commission,
Chennai-4.

2. The Manager,
Indian Bank,
Villivakkam Branch,
Chennai-49.

1 cc to Mr.S.S.Vasudevan, Advocate, SR.57868
1 cc to Mr.M.Krishnappan, Advocate, SR.57360

tej (co)

dv/7.12.06

Judgement in
W.A.No.1943 of 2001

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